



Bay Area Infrastructure Financing Authority
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Memorandum

TO: BAIFA

DATE: December 17, 2014

FR: Executive Director

W. I. 6840

RE: BAIFA Resolution No. 8 – Right of Way Certification Authority for the BAIFA I-680 Express Lane Project

BAIFA Resolution No. 8 would delegate the Authority to execute Right of Way Certifications for the I-680 Express Lane Project to each of the BAIFA Executive Director, or designee, and the Contra Costa County Public Works Director, or designee.

Background

BAIFA is finalizing the design for the I-680 Express Lane Project in Contra Costa County, which will convert high occupancy vehicle lanes into express lanes on I-680 between Alcosta Boulevard and Rudgear Road/Livorna Road. The project may require completing various right of way services, such as certifications, appraisals, acquisitions and relocation services for certain parcels. Since BAIFA does not have right of way staff, BAIFA has executed a Real Property Services Agreement (the Agreement) with the County of Contra Costa (CCC), under which the Real Estate Division of its Public Works Department may provide these services for the project.

CCC currently provides right of way services for projects within its jurisdiction and meets FHWA and Caltrans qualification requirements for providing these services. The Agreement was approved by the CCC Board of Supervisors on December 2, 2014.

BAIFA Resolution No. 8 allows for the completion of a number of Right of Way Certifications required for express lane development on the I-680 corridor. Separate certifications for the general civil construction contracts, communication backhaul network contracts and toll system integration contracts will all be required. The limits of construction along I-680 extend from the I-580 interchange to the Benicia-Martinez Bridge toll plaza.

As part of the project approval process, Caltrans requires that BAIFA execute Caltrans' standard Right of Way Certifications, the format for which is attached to this Memorandum as Attachment A. Caltrans further requires that a resolution accompany each such certification, delegating the authority to execute the certification to specific agency or consultant staff.

In addition to delegating Right of Way Certification execution authority to BAIFA's Executive Director, or designee, delegating such authority to staff within CCC, as needed, will streamline the delivery of the I-680 Express Lane Project. Completing Caltrans Right of Way Certifications is included in the Agreement as a service that may be provided by CCC.

Recommendation

Staff recommends that BAIFA approve Resolution No. 8, which would delegate the authority to execute Right of Way Certifications to each of the BAIFA Executive Director, or designee, and the Contra Costa County Public Works Director, or designee, for the I-680 Express Lane Project.



Steve Heminger

Attachment: Caltrans Right of Way Certification, Exhibit 17-EX-18

ONLY THE PARAGRAPHS RELATING TO THE SPECIFIC PROJECT SHOULD BE USED

To: (Name), District Director **Date:**
Attention: District Division Chief **File:** Dist.-Co.-Rte.-KP/PM: _____
Project Development EA (Design Phase No.): _____
Const. Fed-Aid No: _____¹
Right of Way Fed-Aid No. _____¹

From: DEPARTMENT OF TRANSPORTATION - DISTRICT _____

Subject: Right of Way Certification No. _____ for the project _____ (Location and Work Description from District PS&E)

1. **STATUS OF REQUIRED RIGHT OF WAY:** The acquisition of right of way was not required. All work proposed is within existing right of way acquired for a previous construction project.

(OR)

1. **STATUS OF REQUIRED RIGHT OF WAY:** Right of way (has been) acquired in accordance with applicable policy and procedure covering the acquisition of real property. State (has) legal and physical possession and right to enter on all land as follows:

A. Total number of parcels required ²
1. Parcels acquired (escrow closed or Final Order of Condemnation recorded) ³
2. Parcels covered by Order for Possession. ³

Parcel No.	Owner	Effective Date
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3. Parcels covered by Right of Entry (RE) ³

Parcel No.	Owner	Type ⁴	Effective Date	Date Funds Made Available to Owner ⁵
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4. Parcels covered by a Right of Entry executed prior to appraisal ⁶

Parcel No.	Owner	Effective Date
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5. Parcels covered by Resolution of Necessity only. ³
(Used only rarely in a Cert No. 3 situation where the project must be advertised, the Resolution of Necessity has been approved by the CTC, but the Order for Possession has not yet been served.)

Parcel No.	Owner	Anticipated OR Effective Date
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6. Parcels covered by other acquisition documents as follows: ³

Explanation: _____

NOTE: Items 1 through 6 should equal Line A.

¹ Add these words to all Certs. Must insert number(s) or the word "NONE" for the R/W Fed-Aid No.
² Parcels shown in Items 1-6 should total the number shown in Item A.
³ Detail should be added showing expiration dates with fixed termination dates, such as temporary easements.
⁴ Either RE or RC (possession clause in approved Right of Way Contract).
⁵ If no entry is made in this column, a full explanation is required.
⁶ Attach justification/approval from the DDC, Right of Way.

B. Construction Permits, etc., required.

- | | KP/PM | Owner | Type Document | Effective Date | Expiration Date |
|--|-------|-------|---------------|----------------|-----------------|
|--|-------|-------|---------------|----------------|-----------------|
2. **STATUS OF AFFECTED RAILROAD OPERATING FACILITIES:** None affected. (OR)
 Clearance letter has been received from Office of Structures. This project is now satisfactory for advertising insofar as the Railroad is concerned. (OR)
 Clearance letter has not been received from the Office of Structures. (Explain the railroad involvement, e.g., Service Contract, clauses in Contract Special Provisions, etc., with the name of the railroad involved.) This Certification is subject to the clearance letter from the Office of Structures.

3. **MATERIAL/DISPOSAL SITE(S):** None required (OR)
 Commercial (OR)
 Optional site(s) secured as follows: (OR)
 Mandatory site(s) secured as follows:

- | | Parcel Agreement No. | Owner | Document Date | Expiration Date |
|--|----------------------|-------|---------------|-----------------|
|--|----------------------|-------|---------------|-----------------|
4. **STATUS OF REQUIRED UTILITY RELOCATIONS:** None required (OR)
 All utility work has been completed. (OR)
 All utility work will be completed by a stated date prior to award of the contract (see schedule below). (OR)
 All necessary arrangements have been made for the completion of all remaining utility work required to be coordinated with project construction. Arrangements have been made with the owners of all utility encroachments which will remain within the right of way of the project so that adequate control of the right of way will be achieved. The special provisions in the contract provide for the coordination (see schedule below).

Utility notices must have been issued. (AND) (when applicable)
 Federal approvals have been obtained. (AND) (when applicable)
 The following utilities are located within the project rights of way but require no relocation:

Company	Type/Facility
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(AND) (when applicable)
 The following utilities are in conflict with the project and require relocation as follows:

Right of Way					
Notice No.	Notice Date	Company	Liability (Owner/State)	Type of Facility	Relocation Schedule
					Date (OR) Concurrent with Construction (OR) Bid Item

Additional information required for each bid item (when applicable):

- | | Bid Item No. | Type of Facility | Liability (Owner/State) | Federal Participation ⁷ |
|--|--------------|------------------|-------------------------|------------------------------------|
|--|--------------|------------------|-------------------------|------------------------------------|
5. **RIGHT OF WAY CLEARANCE:** There are no improvements or obstructions located within the limits of this project. (OR)
 All right of way clearance work has been completed and there are no improvements or obstructions remaining within the right of way area required for construction. (OR)
 All necessary arrangements have been made for remaining right of way clearance work to be undertaken and completed as required for proper coordination with the construction schedule as follows:

- | | Parcel No. | KP/PM | Description | Salvable/Non Salv. | Method of Disposal | Date Site Available to Const. Contractor |
|--|------------|-------|-------------|--------------------|--------------------|--|
|--|------------|-------|-------------|--------------------|--------------------|--|
6. **AIRSPACE AGREEMENTS:** There are no airspace lease properties within the limits of this project. (OR)
 All necessary arrangements have been made with airspace lessee(s) and/or in Contract Provisions to minimize conflicts between lessee's activities and contractor's operations. (OR)

⁷ If yes, a copy of Specific Authorization to Relocate Utilities memorandum must be attached. (See Form RW 13-15.)

CERTIFICATION FORMAT (Cont'd)

(Form #)

EXHIBIT

14-EX-3 (Rev. 6/99)

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Airspace lease (describe) has been canceled effective (date). (OR)
(Explanation of other disposition of airspace lease area.)

7. **COMPLIANCE WITH RELOCATION ASSISTANCE PROGRAM REQUIREMENTS:** Compliance was not required as there were no displacements for this project. (OR)

The project has no occupied parcels. (Except as explained below.)⁸ The State has complied with all the steps relative to relocation advisory assistance and payments as required by applicable policy and procedure, and no person has been required to relocate without at least 90 days written notice. If residential relocation was involved, all individuals and/or families have been relocated to decent, safe and sanitary housing, or the State has made replacement housing available to the relocatees.

Types of relocation involved on this project: ⁹ Personal property relocation (AND) residential relocation, (AND) business, farm, or nonprofit relocation.

Exceptions:

Occupants of residences, businesses, farms or nonprofit organizations who have not yet moved from the right of way will be protected against unnecessary inconvenience and disproportionate injury or any action coercive in nature.

Parcel No.	KP/PM	Name of Occupant	Date to Vacate	Type Occupancy
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Explanation: (Describe the exceptions and the reason the R/W is not clear.)

8. **COOPERATIVE AGREEMENTS** (Optional Entry): None Required. (OR) Agency Agreement No.

9. **ENVIRONMENTAL MITIGATION:** No environmental mitigation parcels are required for this project. (OR)

All environmental mitigation parcels on the project have been acquired. (OR)

Acquisition of environmental mitigation parcels is ongoing. (Explanation.)

10. CERTIFICATION

I hereby certify the right of way on this project as conforming to 23 CFR 635.309(C)(1) (OR) (C)(2). The project may be advertised with contract award being made at any time. (OR)

I hereby certify the right of way on this project as conforming to 23 CFR 635.309(C)(3). The project may be advertised at any time. The project will be certified as conforming to Paragraph (C)(1) (OR) (C)(2) by (date) . (AND)
(Explanation and reasons why a #3 certification is being used and substantiation that the Cert #1 or #2 date given above is realistic.) (OR)

"I hereby certify the right of way on this project as conforming to 23 CFR 635.309(C)(3). The project may be advertised at any time. Approvals are attached for the work-around. Appropriate notification has been included in the Bid Documents. An updated Certification No. 3 will be provided by (date)." ¹⁰ (OR)

"I hereby certify the right of way on this project as conforming to 23 CFR 635.309(C)(3). The project has been advertised and the contract may be awarded. Approvals are attached for the work-around. I have confirmed that all appropriate notifications have been included in the Bid Documents concerning said work-around." ¹¹

District Division Chief - Right of Way

(or person authorized in writing to sign Certification)

- c: District or Headquarters, Office Engineer/Attn: Scheduling Engineer
Headquarters, Program Manager, HQ R/W (Cert 3W only)

⁸ Remove words in parentheses if not applicable.

⁹ Enter only those types involved in the specific project.

¹⁰ Certification statement to be used on the initial submittal of Special Certification No. 3.

¹¹ Certification statement to be used on the updated Special Certification No. 3 required no later than 15 days prior to bid opening.

SAMPLE MINIMUM CERTIFICATION

(Form #)

To: (Name), District Director

Attention: District Division Chief
Project Development

Date:

File: Dist.-Co.-Rte.-KP/PM: _____
EA (Design Phase No): _____
Const. Fed-Aid No: _____
Right of Way Fed-Aid No: _____

From: DEPARTMENT OF TRANSPORTATION - DISTRICT _____

Subject: Right of Way Certification No. 1 for the project in _____

1. **STATUS OF REQUIRED RIGHT OF WAY:** The acquisition of right of way was not required. All work proposed is within existing right of way acquired for a previous construction project.
2. **STATUS OF AFFECTED RAILROAD OPERATING FACILITIES:** None affected.
3. **MATERIAL/DISPOSAL SITE(S):** None required.
4. **STATUS OF REQUIRED UTILITY RELOCATIONS:** None required.
5. **RIGHT OF WAY CLEARANCE:** There are no improvements or obstructions located within the limits of this project.
6. **AIRSPACE AGREEMENTS:** There are no airspace lease properties within the limits of this project.
7. **COMPLIANCE WITH RELOCATION ASSISTANCE PROGRAM REQUIREMENTS:** Compliance was not required as there were no displacements for this project.
8. **ENVIRONMENTAL MITIGATION:** No environmental mitigation parcels are required for the project.
9. **CERTIFICATION:** I hereby certify the right of way on this project as conforming to 23 CFR 635.309(C)(1). The project may be advertised with contract award being made at any time.

District Division Chief - Right of Way
(or person authorized in writing to sign Certification)

c: Headquarters, Office Engineer /Attn.: Scheduling Engineer

Date: December 17, 2014
W.I.: 6840
Referred by: BAIFA

ABSTRACT

BAIFA Resolution No. 8

This resolution authorizes each of the Bay Area Infrastructure Financing Authority (BAIFA) Executive Director, or designee, and the Contra Costa County Public Works Director, or designee, to execute Right of Way Certifications for BAIFA's I-680 Express Lane Project.

Further discussion is contained in the Executive Director's Memorandum to BAIFA dated December 17, 2014.

Date: December 17, 2014
W.I.: 6840
Referred by: BAIFA

Re: Right of Way Certification Authority for the Bay Area Infrastructure Financing Authority
I-680 Express Lane Project

BAY AREA INFRASTRUCTURE FINANCING AUTHORITY
RESOLUTION NO. 8

WHEREAS, the Metropolitan Transportation Commission (“MTC”) and the Bay Area Toll Authority (“BATA”) have executed a joint exercise of powers agreement dated as of August 1, 2006, as amended, which creates and establishes the Bay Area Infrastructure Financing Authority (“BAIFA”); and

WHEREAS, BAIFA intends to construct improvements necessary to convert the existing high occupancy vehicle lanes into express lanes on I-680 in Contra Costa County (the “I-680 Express Lane Project”) ; and

WHEREAS, the I-680 Express Lane Project may require completion of various right of way services, such as appraisals, acquisitions, and relocation services for certain parcels; and

WHEREAS, BAIFA does not have the power to condemn or qualified right of way staff to accomplish such services; and

WHEREAS, the County of Contra Costa (“CCC”), which currently provides right of way activities for projects within its jurisdiction, meets the Federal Highway Administration and the State of California Department of Transportation’s (“Caltrans”) qualification requirements to provide right of way services; and

WHEREAS, CCC and BAIFA have executed an agreement, which was approved by the CCC Board of Supervisors on December 2, 2014, under which CCC’s Public Works Department, Real Estate Division, will provide right of way services, as needed, for the I-680 Express Lane Project; and

WHEREAS, Caltrans requires, as part of the project approval process, the execution of Caltrans’ standard Right of Way Certifications by a local agency prior to issuing Caltrans Encroachment Permits; and

WHEREAS, Caltrans further requires the Right of Way Certifications be submitted with a resolution by the governing body that formally delegates the authority to execute the document to specific agency or consultant staff; now, therefore, be it

RESOLVED, that each of the BAIFA Executive Director, or designee, and the CCC Public Works Director, or designee is hereby authorized to execute of Right of Way Certifications for the I-680 Express Lane Project.

BAY AREA INFRASTRUCTURE FINANCING
AUTHORITY

Amy Rein Worth

The above resolution was entered into by
the Bay Area Infrastructure Financing Authority
at a regular meeting of the Board held in Oakland,
California on December 17, 2014.